

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
AMARILLO DIVISION**

LONE STAR STATE DEVELOPMENT 1,  
L.L.C.,

*Plaintiff,*

and

FINLAY DEVELOPMENT, LLC,

*Intervening Plaintiff,*

v.

No. 2-09CV-221-J

MULTI-HOUSING TAX CREDIT  
PARTNERS LII, L.P. and MULTI-  
HOUSING INVESTMENTS, L.L.C.,

*Defendants, Counter-Claimants and  
Third-Party Plaintiff (in the case of  
MHI)*

v.

CHRISTOPHER FINLAY and  
FINLAY HOLDINGS, INC.,

*Third-Party Defendants.*

**THIRD-PARTY DEFENDANTS' MOTION TO DISMISS THIRD-PARTY COMPLAINT  
PURSUANT TO FED. R. CIV. P. 12 (b)**

**CONCURRENCE SOUGHT BUT NOT OBTAINED**

NOW COME Third-Party Defendants, Christopher Finlay and Finlay Holdings, Inc., and for their motion to dismiss third-party complaint, state:

1. On December 17, 2009, Third-Party Plaintiff Multi-Housing Investments, LLC ("MHI") filed its third-party complaint against Third-Party Defendants Christopher Finlay ("C. Finlay") and Finlay Holdings, Inc. ("Finlay Holdings").

2. C. Finlay and Finlay Holdings bring this instant motion to dismiss MHI's third-party complaint pursuant to Fed. R. Civ. P. 12(b)(1), (2), (3), (6) and (7).

3. For the reasons stated in the accompanying brief, MHI's third-party complaint should be dismissed.

4. On January 6, 2010, counsel for C. Finlay and Finlay Holdings, after explaining the basis for the instant motion, sought concurrence from counsel for MHI in the instant motion, but concurrence was not obtained.

Wherefore, Third-Party Defendants, Christopher Finlay and Finlay Holdings, Inc., respectfully request that this Honorable Court enter an Order providing the following relief:

- A. Granting Third-Party Defendants' Motion To Dismiss Third-Party Complaint;
- B. Dismissing Third-Party Plaintiff Multi-Housing Investments, LLC's third-party complaint against Third-Party Defendants Christopher Finlay and Finlay Holdings, Inc., with prejudice;
- C. Awarding Third-Party Defendants Christopher Finlay and Finlay Holdings, Inc. their costs and attorney fees incurred from responding to the Third-Party Complaint; and
- D. Awarding any other relief this Court deems just and equitable.

Respectfully submitted,

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/s/ Jennifer L. Brant  
**Attorneys for Christopher Finlay and  
Finlay Holdings, Inc.**

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that on January 19, 2010, a true and correct copy of the above and foregoing, was served on all counsel of record via the Court's ECF systems, including:

Marvin W. Jones, Esq.  
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